

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**CIVIL ACTION # 05-CV-30131-MAP**

**NATIONAL GRID COMMUNICATIONS, INC.,**  
Plaintiff

v.

**TOWN OF LENOX and LENOX ZONING  
BOARD OF APPEALS,**  
Defendants

**MOTION TO COMPEL**

Now come the Defendants, the Town of Lenox and the Lenox Board of Appeals, through their attorneys, and ask this Honorable Court to compel the Plaintiff's attorney to produce the discovery information which was originally timely requested by the Defendants on October 14, 2005, and which has still not been provided. In support of this Motion, an affidavit from Jerome J. Scully and an affidavit from Anthony C. Blair, both counsel for the Defendants is attached.

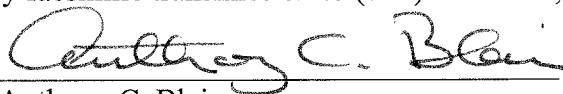


Anthony C. Blair  
BBO # 653849  
Hannon Lerner  
184 Main Street  
Lee, MA 01238

Dated: April 11, 2006

**CERTIFICATE OF SERVICE**

The above MOTION TO COMPEL was served upon the Plaintiff's attorney, Kenneth Ira Spigle, 687 Highland Ave., Suite 1, Needham, MA 02494, by facsimile transmission to (781) 453-0510, and by first class mail on this date.



Anthony C. Blair

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BOARD OF APPEALS,**  
Defendants

**AFFIDAVIT OF  
JEROME J. SCULLY, ESQ.  
COUNSEL FOR THE  
DEFENDANTS**

I, Jerome J. Scully, Esq., of Hannon Lerner, 184 Main Street, Lee, Berkshire County, Massachusetts, being first duly sworn, being first duly sworn, depose and say as follows:

- 1: I am Town Counsel for the Town of Lenox.
- 2: As counsel for the Defendants in this case I have corresponded with and spoken with Kenneth Ira Spigle, Esq., of 687 Highland Ave., Suite 1, Needham, MA 02494, who is the Plaintiff's attorney.
- 3: Prior to and during the most recent case management conference, held by telephone on March 29, 2006, Atty. Spigle told me and the Court that he would provide me with the written discovery information which our firm had requested from him on October 14, 2005, and that he would do so by the end of that week (March 31) or beginning of the following week (April 4) at the latest.
- 4: Our original request for discovery was filed in a timely fashion, according to the original schedule set by the Court for this case.
- 5: It is now 13 days since the telephone conference with the Court, and we have still not received the requested discovery.

- 6: We are expected to be able to proceed with this case in a timely fashion, and the Court has made it clear that no further revisions to the schedule now set forth will be allowed.
- 7: Without prompt production of the materials requested by our firm we cannot properly prepare and defend this case.

Signed under the pains and penalties of perjury this 11th day of April, 2006.

By:

A handwritten signature in black ink, appearing to read "Jerome J. Scully", is written over a horizontal line.

Jerome J. Scully, Esq.

BBO # 449660

Hannon Lerner

184 Main Street

Lee, MA 01238

(413) 243-3311

Dated: April 11, 2006

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BOARD OF APPEALS,**  
Defendants

**AFFIDAVIT OF  
ANTHONY C. BLAIR, ESQ.  
COUNSEL FOR THE  
DEFENDANTS**

I, Anthony C. Blair, Esq., of Hannon Lerner, 184 Main Street, Lee, Berkshire County, Massachusetts, being first duly sworn, being first duly sworn, depose and say as follows:

- 1: I am Town Counsel for the Town of Lenox.
- 2: As counsel for the Defendants in this case I have corresponded with and spoken with Kenneth Ira Spigle, Esq., of 687 Highland Ave., Suite 1, Needham, MA 02494, who is the Plaintiff's attorney.
- 3: After the most recent case management conference, held by telephone on March 29, 2006, Atty. Spigle told me that he would provide me with the written discovery information which our firm had requested from him on October 14, 2005, and that he would do so by the end of that week (March 31) or beginning of the following week (April 4) at the latest.
- 4: Our original request for discovery was filed in a timely fashion, according to the original schedule set by the Court for this case.
- 5: Between our timely original filing and the most recent telephone conference with the Court, I have spoken with Atty, Spigle on the matter of needing his response to our

discovery request on several occasions and also written him to remind him of our need for the information requested.

- 5: It is now 13 days since the telephone conference with the Court, and we have still not received the requested discovery.
- 6: We are expected to be able to proceed with this case in a timely fashion, and the Court has made it clear that no further revisions to the schedule now set forth will be allowed.
- 7: Without prompt production of the materials requested by our firm we cannot properly prepare and defend this case.

Signed under the pains and penalties of perjury this 11th day of April, 2006.

By:

A handwritten signature in cursive script, appearing to read "Anthony C. Blair", written over a horizontal line.

Anthony C. Blair  
BBO # 653849  
Hannon Lerner  
184 Main Street  
Lee, MA 01238

Dated: April 11, 2006